

Court of Appeals of Maryland

No. 143, October Term, 1954 - Filed June 19, 1955
HARRY SCHIFF and OSCAR SANDLER ET AL.

BOARD OF ZONING APPEALS OF BALTIMORE COUNTY AND GREENSPRING MANOR, INC.

Appeal from the Circuit Court for Baltimore County, 4-30-55

Appointed by Judge H. J. Harbo, Clerk of the Court, on the basis of the report of the Board of Zoning Appeals of Baltimore County, dated May 26, 1953.

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Appointed by Judge H. J. Harbo, Clerk of the Court, on the basis of the report of the Board of Zoning Appeals of Baltimore County, dated May 26, 1953.

RE: PETITION FOR RECLASSIFICATION - two parcels, first from an "A" Residence Zone to an "R" Commercial Zone - S. S. Smith Ave., 1790 feet from Green Spring Ave., second, from an "A" Residence Zone to a "C" Residence Zone - S. S. Smith Ave., 3150 feet from Green Spring Ave., 3rd District, Green Spring Manor, Inc., Petitioner

The appeal in the above entitled matter coming on for hearing before the Board of Zoning Appeals of Baltimore County on September 17, 1953, granting the reclassification from "A" Residence Zone to "C" Residence Zone in regard to part of the property described therein, and the granting from an "A" Residence Zone to an "R" Commercial Zone and the granting of a special permit for parking as to another part thereof; and it appearing from the facts and evidence adduced at the appeal that the granting of the reclassification from an "A" Residence Zone to an "R" Commercial Zone would not be detrimental to the health, safety, and general welfare of the community, the same is reclassified as follows: That part of the 25 acres of land upon which the two airplane hangars now stand plus sufficient land surrounding them to equal three acres, exclusive of streets and walks. The remainder of said 25 acres shall remain in an "A" Residence classification, except that a special permit is granted to use said remainder, or any part thereof, for automobile parking in connection with the commercial property; provided further that at least 15 acres shall be set aside exclusively for parking. The entire tract of 52 acres is denied reclassification from "A" Residence Zone to "C" Residence Zone, on this 10th day of December, 1953.

Charles H. Deing, Esq.
Robert F. Alden
Samuel M. Williams
Board of Zoning Appeals of Baltimore County

OPINION OF THE BOARD OF ZONING APPEALS BALTIMORE COUNTY

This is an appeal by Harry Schiff from an Order of the Zoning Commissioner of Baltimore County dated May 26, 1953, reclassifying that part of the applicant's property containing 52 acres from "A" Residence Zone to "C" Residence Zone and reclassifying from "A" Residence Zone to "R" Commercial Zone a part of another 25 acres, and the granting of a special permit for parking in connection with the commercial area.

The case came on for hearing before the Board, testimony was taken, and counsel heard.

The property which is the subject of this petition is a tract of land lying on the south side of Smith Avenue, 1390 feet west of Green Spring Avenue, having a frontage of 2276 feet on Smith Avenue by a depth of approximately 1300 feet with a width in the rear of approximately 2500 feet.

The applicant wishes to establish a shopping center of approximately 25 acres along Smith Avenue towards the center-front of the property with garden apartments on either side thereof and to the rear. There are no garden-type apartments in this general area within Baltimore County, and no provision was made at the time of original zoning to provide for any, nor have there been any changes which would justify this Board in granting a reclassification for this type of housing. There are communities around the subject property that are growing rapidly and being developed with cottage-type residences, which in time will require certain limited neighborhood shopping facilities.

It is the opinion of the Board that a commercial area established in a given location prior to the full development of large areas of surrounding property is desirable and prevents

residential owners from being jeopardized in regard to their investments when at a much later date an attempt is made to set up a commercial area. The effect is that prospective home owners will know prior to purchasing where the zoning boundaries are located. There is another reason in this particular case why a commercial area on the subject property would not be injurious in that land binding on three sides thereof is owned by the applicant or is included in the subject property.

In regard to any detrimental effect a commercial area may have to the property on the north side of Smith Avenue, the Board noted that two large airplane hangars are on this tract and have been for a number of years, and are at the present time being used by the Bendix Corporation under a non-conforming use, and there is little likelihood of this non-conforming use being terminated.

The Board will, therefore, pass its Order granting the reclassification from an "A" Residence Zone to an "R" Commercial Zone as to that part of the 25 acres of land upon which the two airplane hangars now stand plus sufficient land surrounding them to equal three acres, exclusive of streets and walks. The remainder of said 25 acres shall remain in an "A" Residence classification, except that a special permit is granted to use said remainder, or any part thereof, for automobile parking in connection with the commercial property; provided further that at least 15 acres shall be set aside exclusively for parking. The entire tract of 52 acres requested for reclassification from "A" Residence Zone to "C" Residence Zone is denied.

FILED MAY 29 1953

Charles H. Deing, Esq.
Zoning Commission
Towson 4, Maryland

Re: Petition for reclassification - two parcels, first from an "A" Residence Zone to an "R" Commercial Zone - S. S. Smith Ave., 1790 feet from Green Spring Ave., second, from an "A" Residence Zone to a "C" Residence Zone - S. S. Smith Ave., 3150 feet from Green Spring Ave., 3rd District, Green Spring Manor, Inc., Petitioner

Mr. Commissioner:

Please enter an appeal in behalf of Harry Schiff to the Board of Zoning Appeals of Baltimore County from the Order of the Zoning Commissioner dated May 26, 1953 in the above application for reclassification, and forward transmission of record to the Board of Zoning Appeals of Baltimore County.

Harry Schiff
Petitioner
5806 1st Ave.,
Baltimore 15, Md.

Dated May 29, 1953.

Upon hearing held on May 13th, 1953 on the application of Greenspring Manor, Inc., Petition No. 2575 to reclassify 25 acres of land, more or less, on the south side of Smith Avenue from "A" Residence Zone to an "R" Commercial Zone, and to reclassify 52 acres of land, more or less, fronting, in part, on the south side of Smith Avenue and surrounding the above-mentioned twenty-five acres of land to the east, south and west, from an "A" Residence Zone to a "C" Residence Zone, (both of which parcels of land being more particularly described in said application) and it appearing from the testimony and exhibits that a reclassification of said 25 acres from an "A" Residence Zone to an "R" Commercial Zone should be had in part only. Therefore as to said 25 acres the application is granted in part and rejected in part. The part of said 25 acres which is hereby reclassified being the land upon which the two airplane hangars now stand plus sufficient land surrounding them to equal three acres, exclusive of streets and walks and no more. The remainder of said 25 acres shall remain an "A" Residence Zone except that a special permit to use said remainder or any part thereof for automobile parking in connection with the use of said three acres reclassified is hereby granted, provided that at least 15 acres thereof shall be set aside exclusively for parking and shall be used for no other purpose.

The whole of said 52 acres described in said petition is hereby reclassified from an "A" Residence Zone to a "C" Residence Zone, subject to the approval of the subdivision plan by the Planning Commission of Baltimore County and subject to the requirements of the Zoning Regulations of Baltimore County applicable to "C" Residence Zone.

Charles H. Deing
Charles H. Deing,
Zoning Commissioner.

May 26, 1953

MD-114

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

William Zinn, et al. vs. Board of Zoning Appeals

Case No. Misc. 1316

June 10, 1955 - Order reversed, the parties to be heard on the merits of the case.

Opinion filed: Dr. Henderson, J.

FOR THE PLAINTIFFS: GEORGE L. HYERLY, Clerk.

FOR THE DEFENDANTS: GEORGE L. HYERLY, Clerk.

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FOR THE PLAINTIFFS: GEORGE L. HYERLY, Clerk.

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 2nd Date of Posting: 4-28-53
Posted for: 1st to C, 1st from A to C Commercial Zone
Petitioner: Greenspring Manor, Inc.
Location of property: S. S. Smith Ave., 1790 feet from Green Spring Ave., 3rd District, Green Spring Manor, Inc.
Location of signs: S. S. Smith Ave., 1790 feet from Green Spring Ave., 3rd District, Green Spring Manor, Inc.
Remarks: 1st to C, 1st from A to C Commercial Zone
Posted by: George L. Hyerly, Clerk

Date of return: 4-28-53

April 24, 1953

\$61.00

RECEIVED Emanual Gorfine, Attorney for Green Spring Manor, Incorporated, petitioner, the sum of Sixty One (\$61.00) Dollars, being cost of petition for reclassification, advertising and posting property, two parcels, south side of Smith Avenue, 3rd District.

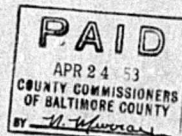
Zoning Commissioner
of Baltimore County

Hearing:

Wednesday, May 13, 1953

at 2:00 p. m.

basement of
Reckord Bldg.,
Towson, Md.

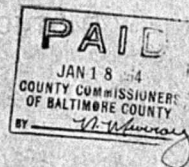


January 18, 1954

\$10.20

RECEIVED of Service Realty, Inc., the sum of \$10.20 being cost of certified copies of petition and other papers filed in the matter of reclassification of property, south side of Smith Avenue, 3rd District, Green Spring Manor, Inc., petitioner.

Zoning Commissioner



NO PLAT
IN
THIS FOLDER